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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

8 HUSSEIN ZAHEER,

9 Petitioner,

10 v.

11 ICE FIELD OFFICE DIRECTOR,

12 Respondent.

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)
) Case No. C11-585-MJP-BAT
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**ORDER FOR SUPPLEMENTAL
BRIEFING**

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14 Petitioner Hussein Zaheer, a native and citizen of Pakistan, is currently the subject of
15 “withholding only” proceedings before an Immigration Judge.¹ On April 7, 2011, petitioner,
16 proceeding pro se, filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241,
17 challenging the lawfulness of his continued detention by the United States Immigration and
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19 ¹ To qualify for withholding of removal, the applicant must establish that it is more likely than
20 not that his “life or freedom would be threatened in [the] country [of removal]” on the basis of
21 one of five statutory grounds, “race, religion, nationality, membership in a particular social
22 group, or political opinion.” 8 U.S.C. § 1231(b)(3)(A) (“[T]he Attorney General may not
23 remove an alien to a country if the Attorney General decides that the alien’s life or freedom
would be threatened in that country because of the alien’s race, religion, nationality, membership
in a particular social group, or political opinion.”); *see also* 8 C.F.R. §§ 208.31(e), 1208.16(b).
See INS v. Aguirre-Aguirre, 526 U.S. 415, 419 (1999) (“[W]ithholding only bars deporting an
alien to a particular country or countries.”).

1 Customs Enforcement (“ICE”). Dkt. 7. Respondent has filed a Return and Motion to Dismiss,
2 arguing that petitioner is lawfully detained pursuant to a reinstated order of removal to Pakistan.
3 Dkt. 12.

4 In his motion to dismiss, respondent contends that petitioner’s detention is permitted by 8
5 U.S.C. § 1231(a)(1)(C) which states that “[t]he removal period shall be extended beyond a
6 period of 90 days and the alien may remain in detention during such extended period if the alien
7 refuses to make timely application in good faith for travel or other documents necessary to the
8 alien’s departure or conspires or acts to prevent the alien’s removal subject to an order of
9 removal.” 8 U.S.C. § 1231(a)(1)(C). Respondent asserts that petitioner’s detention has been
10 extended “because Petitioner refuses to make timely application in good faith for travel
11 documents necessary to effectuate his removal to Ivory Coast and has acted to prevent his own
12 removal.” Dkt. 12 at 5.

13 Based on a review of the administrative record, however, the Court could find no
14 evidence that petitioner has acted in bad faith or has failed to cooperate with ICE’s efforts to
15 remove him from the United States. What is more, the Court could not find any Notice of
16 Failure to Comply within the record. 8 C.F.R. § 241.4(g)(1)(C)(ii) (“The Service will provide . .
17 . an alien with a Notice of Failure to Comply . . . *before expiration of the removal period.*”).
18 Furthermore, it appears that petitioner was granted release under bond in the amount of \$25,000
19 on February 16, 2011, which remains valid. Administrative Record (“AR”) at L498. In
20 addition, it appears that a hearing before an Immigration Judge is currently scheduled for
21 October 11, 2011, which may alter the disposition of this matter. AR L496.

22 Accordingly, the Court does hereby ORDER:

23 (1) Respondent shall submit additional briefing directed principally at the issue of the

1 likelihood of petitioner's removal from the United States, supplement the administrative record,
2 and provide a status report regarding petitioner's proceedings before the Immigration Court
3 within 15 days of the October 11, 2011, hearing before the Immigration Judge.

4 (2) Petitioner may file a response to respondent's supplemental briefing within 15 days
5 of receipt of the briefing.

6 (3) The Clerk is directed to RE-NOTE respondent's motion to dismiss, Dkt. 12, for
7 consideration on **Friday, November 18, 2011.**

8 DATED this 11th day of October, 2011.

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12 BRIAN A. TSUCHIDA
13 United States Magistrate Judge
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